

RONALD DEVONE BALCOM, )  
 AIS #158439, )  
 )  
 Plaintiff, )  
 )  
 v. ) CASE NO. 1:19-CV-264-WHA  
 )  
 DONALD VALENZA, et al., )  
 )  
 Defendants. )

This 42 U.S.C. § 1983 action is before the court on a complaint filed by Ronald Devone Balcom challenging general conditions present at the Houston County Jail. On April 12, 2019, the Magistrate Judge entered a Recommendation that this case be summarily dismissed without prejudice because at the time Balcom filed this case he had “three strikes” under 28 U.S.C. § 1915(g), was not in “imminent danger of serious physical injury” and did not pay the full filing fee upon initiation of this case. Doc. 3 at 2–4; *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002) (emphasis in original) (holding that an inmate in violation of the three strikes provision of § 1915(g) who is not in imminent danger of suffering a serious physical injury at the time he files the complaint “must pay the filing fee at the time he *initiates* the suit.”). The Court in *Dupree* further held that “the proper procedure is for the district court to dismiss the complaint without prejudice when it denies

the prisoner leave to proceed *in forma pauperis* pursuant to the provisions of § 1915(g)[.]”  
*Id.*

On April 18, 2019, Balcom filed an objection to the Recommendation in which he alleges that one of the cases listed as a “strike” in the Recommendation, *Balcom v. Blumenfeld, et al.*, Case No. 1:09-CV-814-TMH-WC (M.D. Ala. Sept. 30, 2009), is not a case filed by him. Doc. 4 at 3. However, the record in the 2009 case refutes this allegation. Specifically, the complaint in *Balcom v. Blumenfeld, et al.*, Case No. 1:09-CV-814-TMH-WC is filed by Ronald Devone Balcom, AIS #158439. In addition, the *in forma pauperis application* submitted with the complaint in such case contains information relative to Ronald Devone Balcom, AIS #158439. Finally, a thorough review of the complaints in the instant case and the 2009 case demonstrates that the signatures of Ronald Devone Balcom on these complaints are virtually identical. It is therefore clear to the court that Balcom has simply forgotten he filed a case with this court in August of 2009.

Accordingly, it is hereby ORDERED as follows:

1. The objection filed by the Plaintiff is OVERRULED.
2. The Recommendation of the Magistrate Judge is ADOPTED.
3. The motion for leave to proceed *in forma pauperis* filed by Ronald Devone Balcom (Doc. 2) is DENIED.

4. This case is DISMISSED without prejudice in accordance with the provisions of 28 U.S.C. § 1915(g) for Balcom's failure to pay the full filing fee upon initiation of this case.

A separate Final Judgment will be entered.

DONE this 19<sup>th</sup> day of April, 2019.

/s/ W. Harold Albritton

SENIOR UNITED STATES DISTRICT JUDGE